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EXAMINER	
JACOBS, LASHONDA T	
ART UNIT	**PAPER NUMBER**
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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/770,427
Filing Date: January 26, 2001
Appellant(s): SECER, SEMIH

Jacob N. Erlich
Reg. No. 24,338
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed November 15, 2006 appealing from the Office action mailed May 31, 2006.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

The rejection of claims 1-35 and 37-64 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

6664978	Kekic et al	12-2003
6047279	Barrack et al	04-2000
6405250	Lin et al	06-2002
6430712	Lewis	08-2002
5615323	Engel et al	03-1997
6513129	Tentij et al	01-2003
6901440	Bimm et al	05-2005
5734642	Vaishnavi et al	03-1998
6199172	Dube et al	03-2001
5261044	Dev et al	11-1993

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims **1-21**, **23-25**, **27-35**, **37-46**, **48-57**, **59-62** and **64** are rejected under 35 U.S.C. 102(b) as being anticipated by Vaishnavi et al (hereinafter, "Vaishnavi", U.S. Pat. No. 5,734,642).

As per claim **1**, Vaishnavi discloses a method for implementing a state model for managing a network coupled to a central management system, said method comprising:

- presenting a user interface a management system to enable a user to define at least one state model for managing at least one network element based on a determined state of said at least one network element (col. 4, lines 28-40);
- presenting a user interface for said central management system to enable a user to define at least one poll service that includes at least one of said at least one state model (col. 5, lines 3-16 and col. 6, lines 26-42); and
- executing said at least one poll service to manage said at least one network element (col. 5, lines 43-56).

As per claim **35**, Vaishnavi discloses a method for enabling state-based management of a network, wherein network elements are managed based on their state, said method comprising:

- receiving input from a user at a management system to define at least one state model for managing at least one network element based on a determined state of said at least one network element (col. 4, lines 28-40);
- receiving input from a user at said management system to define at least one poll service that includes at least one of said at least one state model (col. 5, lines 3-16 and col. 6, lines 26-42);

- distributing said at least one poll service including said at least one state model to at least one distributed polling gateway that is communicatively coupled with said at least one network element (col. 5, lines 3-16);
- executing said at least one poll service at said at least one distributed polling gateway to manage said at least one network element (col. 5, lines 43-56); and
- wherein said management system is a central management system (col. 4, lines 5-22).

As per claim **48**, Vaishnavi discloses a system for managing network elements based on their state, said system comprising:

- at least one network element (col. 3, lines 57-65);
- one or more distributed gateways for monitoring said at least one network element, said one or more distributed gateways communicatively coupled to a central management system between said at least one network element and said central management system (col. 4, lines 5-22 and col. 5, lines 3-16); and
- at least one state model and managing said at least one network element based on a determined state of said at least one network element, said at least one state model capable of being dynamically defined during runtime (col. 6, lines 26-39).

As per claim **59**, Vaishnavi discloses a method for performing state-based management of a network, wherein network elements are managed based on their state, said method comprising:

- executing, on at least one distributed gateway located between the central management system and the network elements at least one user-defined state model for managing at least one network element based on a determined state of said at least one network element, wherein said executing at least one user-defined state model includes polling

said at least one network element for data, evaluating said data to determine whether a user-defined state transition condition is satisfied, and triggering a state transition if said user-defined state transition condition is satisfied for a user-defined number of consecutive polls of said at least one network element (col. 4, lines 5-22 and col. 5, lines 3-16).

As per claim **64**, Vaishnavi discloses a system for managing at least one network element comprising:

- at least one network element (col. 3, lines 57-65);
- at least one gateway for monitoring said at least one network element, said at least one gateway communicatively coupled to a central management system between said at least one network element and said central management system (col. 4, lines 5-22 and col. 5, lines 3-16); and
- at least one state model executing on said at least one gateway for managing said at least one network element based on a determined state of said at least one network element, said at least one state model capable of being dynamically defined during runtime (col. 6, lines 26-39).

As per claim **2**, Vaishnavi further discloses:

- distributing said at least one poll service to at least one distributed polling gateway that is communicatively coupled with said at least one network element (col. 3, lines 57-66); and
- communicatively coupling said user interface to said at least one distributed polling gateway (col. 4, lines 28-40).

As per claims **3** and **37**, Vaishnavi discloses:

- distributing said at least one poll service defined by said user (col. 5, lines 3-12).

As per claim **4**, Vaishnavi discloses:

- distributing said at least one poll service defined by said user a plurality of distributed polling gateways for execution thereon (col. 3, lines 57-66).

As per claim **5**, Vaishnavi discloses:

- wherein said gateways each have the ability to communicate with one or more network elements in a particular one of communication protocols selected from the group consisting of: SNMP protocol and CMIP protocol (col. 5, lines 23-42).

As per claims **6** and **38**, Vaishnavi discloses:

- wherein said at least one distributed polling gateway filters data (col. 6, lines 9-20).

As per claim **8**, Vaishnavi discloses:

- wherein said at least one distributed polling gateway executing software to evaluate a user-defined state model condition to determine whether to execute each of said at least one state model (col. 4, lines 5-22 and col. 5, lines 3-16).

As per claims **7**, **39** and **52**, Vaishnavi discloses:

- wherein said at least one distributed polling gateway communicating data satisfying said at least one state model to said central management system (col. 6, lines 26-42).

As per claim **9**, Vaishnavi discloses:

- wherein said state model condition specifies that said at least one state model is to be executed only for particular network elements (col. 6, lines 26-42).

As per claim **10**, Vaishnavi discloses:

- wherein said at least one distributed polling gateway retrieving from said at least one network element needed values for values defined for said at least one state model (col. 6, lines 9-20).

As per claim **11**, Vaishnavi discloses:

- wherein said at least one distributed polling gateway executing software to evaluate one or more user-defined equations for said at least one state model utilizing the retrieved variable values (col. 4, lines 5-22 and col. 5, lines 3-16).

As per claims **12**, **40** and **53**, Vaishnavi discloses:

- wherein said at least one distributed polling gateway executing software to evaluate one or more user-defined state transition conditions for said at least one state model to determine whether said one or more user-defined state transition conditions are satisfied (col. 4, lines 5-22 and col. 6, lines 26-42).

As per claim **13**, Vaishnavi discloses:

- wherein said at least one distributed polling gateway determining that said one or more user-defined state transition conditions are not satisfied, then the state of said at least one network element remains unchanged (col. 4, lines 5-22 and col. 6, lines 26-42).

As per claims **14**, **41** and **54**, Vaishnavi discloses:

- wherein said at least one distributed polling gateway determining that said one or more user-defined state transition conditions are satisfied, then a state transition for said at least one network element is triggered (col. 4, lines 5-22 and col. 6, lines 26-42).

As per claim **16**, Vaishnavi discloses:

- wherein said at least one distributed polling gateway determining that said one or more user-defined state transition conditions are satisfied in a user-defined number of consecutive polls of said at least one network element, then a state transition for said at least one network element is triggered (col. 4, lines 5-22 and col. 6, lines 26-42).

As per claims **15**, **17**, **42** and **55**, Vaishnavi discloses:

- wherein one or more user-defined transition actions for said state transition are triggered in response to said state transition (col. 5, lines 3-16).

As per claims **18** and **43**, Vaishnavi discloses wherein said presenting a user interface on a management system to enable a user to define at least one state model, further comprises:

- providing a user interface that allows a user to define a plurality of states within a state model for a network element (col. 4, lines 28-40 and col. 6, lines 26-42);
- providing a user interface that allows a user to define at least one transition condition that specifies when a transition from one of said plurality of states to another of said plurality of states is to occur (col. 4, lines 28-40 and col. 6, lines 26-42); and
- providing a user interface that allows a user to define at least one transition action to be performed upon the occurrence of said transition (col. 4, lines 28-40 and col. 6, lines 26-42).

As per claims **19** and **44**, Vaishnavi further discloses:

- correlating various different models of said at least one state model (col. 6, lines 26-42).

As per claims **20** and **45**, Vaishnavi discloses:

- wherein software code executes on at least one distributed polling gateway communicatively coupled to said central management system to perform said step of correlating (col. 6, lines 9-20).

As per claims **21** and **46**, Vaishnavi discloses:

- wherein said software code triggers an action upon a user-defined pattern of states of said various different models being achieved (col. 5, lines 3-16 and col. 6, lines 26-42).

As per claim **23**, Vaishnavi discloses wherein said at least one network element is selected from the group consisting of:

- ATM, Sonet, router, modem, CMIP EMS, switch OSS, NMS, and web server (col. 3, lines 57-66).

As per claim **24**, Vaishnavi discloses:

- wherein said user interface is a graphical user interface (col. 4, lines 29-40).

As per claim **25**, Vaishnavi discloses wherein said at least one state model includes:

- software code specifying at least two user-defined states for said at least one network element (col. 4, lines 28-40 and col. 6, lines 26-42);
- software code specifying at least one transition from a first of said at least two user defined states to a second of said at least two user-defined states (col. 4, lines 28-40 and col. 6, lines 26-42); and
- software code specifying at least one transition action to be performed upon the occurrence of said at least one transition (col. 4, lines 28-40 and col. 6, lines 26-42).

As per claim **27**, Vaishnavi discloses wherein said transition action includes any one or more selected from the group consisting of:

- enabling a particular poll service for said at least one network element, disabling said particular poll service for said at least one network element, enabling a particular state model for said at least one network element, disabling said particular state model for said at least one network element, and triggering one or more user-defined commands to be executed (col. 5, lines 3-16).

As per claim **28**, Vaishnavi discloses wherein said executing said at least one poll service further includes:

- triggering execution of said at least one poll service in response to the occurrence of a user defined event (col. 5, lines 3-16).

As per claim **29**, Vaishnavi discloses:

- wherein said user-defined event includes a particular fault condition defined by a user (col. 4, lines 5-22 and col. 6, lines 26-42).

As per claim **30**, Vaishnavi discloses:

- wherein said at least one poll service is executed only if a user-defined activation condition for said at least one poll service is satisfied (col. 4, lines 5-22 and col. 6, lines 26-42).

As per claim **31**, Vaishnavi discloses:

- wherein said user-defined activation condition specifies that said poll service is for a particular type of network element (col. 5, lines 23-42).

As per claim **32**, Vaishnavi discloses:

- wherein said central management system enables a user to dynamically define said at least one poll service during runtime (col. 4, lines 5-22 and col. 6, lines 26-42).

As per claim **33**, Vaishnavi discloses:

- wherein said central management system enables a user to dynamically define said at least one state model during runtime (col. 4, lines 5-22 and col. 6, lines 26-42).

As per claim **34**, Vaishnavi discloses:

- wherein said central management system enables a user to dynamically modify an existing poll service or state model during runtime (col. 4, lines 5-22 and col. 6, lines 26-42).

As per claims **49** and **61**, Vaishnavi discloses:

- wherein said at least one distributed polling gateway software executing on said central management system to enable a user to define said at least one state model, wherein once a user defines said at least one state model (col. 26-42).

As per claim **50**, Vaishnavi further discloses:

- at least one user-defined poll service that includes one or more of said at least one state model (col. 5, lines 23-42).

As per claim **51**, Vaishnavi discloses:

- software executing on said central management system to enable a user to define said at least one poll service, wherein once a user defines said at least one poll service, it is communicated to said one or more distributed gateways for execution thereon (col. 4, lines 5-22 and col. 6, lines 26-42).

As per claim **56**, Vaishnavi discloses:

- at least one pattern-based state model executing thereon to correlate various of said at least one state model (col. 7, lines 9-16).

As per claim **57**, Vaishnavi discloses:

- wherein said at least one pattern-based state model specifies a user-defined pattern of states of said various models, and wherein said at least one pattern-based state model triggers an action upon said user-defined pattern of states being achieved (col. 7, lines 9-16).

As per claim **60**, Vaishnavi discloses:

- wherein said user-defined number of consecutive polls is a plurality of polls (col. 5, lines 3-16).

As per claim **62**, Vaishnavi discloses:

- wherein if said user-defined state transition condition is satisfied for a user-defined number of consecutive polls of said at least one network element, then one or more user-defined transition actions for the user defined state transition are triggered (col. 5, lines 3-16 and col. 6, lines 26-42).

(11) Response to Argument

Appellants argued in substance that:

(a) Vaishnavi does not anticipate Appellant's claimed user interface, input from a user, or user-defined stated model (independent claims 1, 35 and 59 and dependent claim 24) [Appeal Brief page 14].

In response, Applicant's argument filed has been fully considered but is not persuasive. Vaishnavi discloses a network manager that polls devices to receive information regarding the device through a general-purpose computer (workstation, personal computer, etc.). Although, Vaishnavi does not explicitly disclose a user interface, it is well known in the art that a general-

purpose computer has a user interface that allows a user to input information (abstract and col. 4, lines 28-40). Therefore, Vaishnavi discloses a user interface, input from a user and user defined state model.

(b) Vaishnavi does not anticipate Appellant's claimed dynamic definition of a poll service or a state model at runtime (independent claims 48 and 64, and dependent claims 32, 33, 49, 51, and 61) [Appeal Brief page 15].

In response, Applicant's argument filed has been fully considered but is not persuasive. Vaishnavi discloses a polling manager that provides poll requests to devices of the network to query the status of these devices. Vaishnavi also discloses retrieving the previous state and status information before the model control module is initialized (col. 5, lines 6-16 and col. 6, lines 20-35). Therefore, Vaishnavi discloses a user interface, input from a user and user defined state model.

(c) Vaishnavi does not anticipate Appellant's claimed user-defined state transition conditions (independent claim 59 and dependent claims 12-14, 16, 18, 40, 41, 43, 53, 54 and 62) [Appeal Brief pages 15-16].

In response, Applicant's argument filed has been fully considered but is not persuasive. Vaishnavi discloses a network manager that receives status information from a network and provide monitoring capability to determine the status of manageable devices on the network (col. 4, lines 49-62). Therefore, Vaishnavi discloses user-defined state transition conditions.

(d) Vaishnavi does not anticipate Appellant's claimed number of consecutive polls (independent claim 59 and dependent claim 16) [Appeal Brief pages 16-17].

In response, Applicant's argument filed has been fully considered but is not persuasive. Vaishnavi discloses a polling manager that provides poll requests to devices of the network to query the status of these devices. The poll manager may include an internal clock or timer to trigger the transmission of the poll request (col. 5, lines 6-16). Therefore, Vaishnavi discloses a number of consecutive polls.

(e) Vaishnavi does not anticipate Appellant's claimed distributed polling gateway that filters data or that only communicates data satisfying a state model (dependent claims 6, 7, 38, 39, and 52) [Appeal Brief pages 17-18].

In response, Applicant's argument filed has been fully considered but is not persuasive. Vaishnavi discloses a network manager that polls devices to receive information regarding the device through a general-purpose computer (workstation, personal computer, etc.). Although, Vaishnavi does not explicitly disclose a user interface, it is well known in the art that a general-purpose computer has a user interface that allows a user to input information (abstract and col. 4, lines 28-40). Therefore, Vaishnavi discloses a user interface, input from a user and user defined state model.

(f) Vaishnavi does not anticipate Appellant's claimed user-defined equations (dependent claim 11) [Appeal brief page 18].

In response, Applicant's argument filed has been fully considered but is not persuasive. Vaishnavi discloses a network manager that receives status information from a network and provide monitoring capability to determine the status of manageable devices on the network (col. 4, lines 49-62). Therefore, Vaishnavi discloses user-defined equations.

(g) Vaishnavi does not anticipate Appellant's claimed user-defined transition actions, user-defined pattern of states, user-defined event, or user defined activation condition (dependent claims 15, 17, 18, 21, 28-30, 42, 43, 46, 55, 57, 62) [Appeal Brief pages 18-19].

In response, Applicant's argument filed has been fully considered but is not persuasive. Vaishnavi discloses a network manager that receives status information from a network and provide monitoring capability to determine the status of manageable devices on the network (col. 4, lines 49-62). Therefore, Vaishnavi discloses user-defined transition actions, user-defined pattern of states, user-defined event, or user defined activation condition.

(h) Vaishnavi does not anticipate Appellant's claimed poll service that is for a particular type of network element (dependent claim 31) [Appeal Brief pages 19-20].

In response, Applicant's argument filed has been fully considered but is not persuasive. Vaishnavi discloses a polling manager that provides poll requests to devices of the network to query the status of these devices (col. 5, lines 6-16 and col. 6, lines 20-35). Therefore, Vaishnavi discloses poll service that is for a particular type of network element.

(i) Vaishnavi does not anticipate dependent claims 2-5, 8-10, 19, 23-25, 27, 34, 44, 45, 50 and 56 because they depend upon allowable independent claims.

In response, Applicant's argument filed has been fully considered but is not persuasive. Vaishnavi discloses dependent claims 2-5, 8-10, 19, 23-25, 27, 34, 44, 45, 50 and 56 because they depend upon rejected claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaShonda T. Jacobs whose telephone number is 571-272-4004. The examiner can normally be reached on 8:30 A.M.-5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Examiner
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March 4, 2007

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